

Feb. 4, 2022

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Directors Allen and Vandehey,

RE: HCMO sub-regulatory guidance

Salem Health engaged heavily in the rules advisory process for the Health Care Market Oversight program last fall. While the pandemic consumed most of our attention, we prioritized the rule making process because of the implications it has for our mission of caring for our community. Our team spent dozens of hours reviewing proposed rules, analyzing impacts to our community and patients, and providing verbal and written comment to the agency. We have consistently asked for fairness, predictability and clarity in the development of this program. These are reasonable expectations in any application of the law. People living by the rule of laws should be able to understand the rules they have to live by, and know that those rules will be justly applied without partiality.

We are deeply concerned with the authority's pivot away from administrative rules and to sub-regulatory guidance for so many important details of the program. As we have stated from the beginning, the outlines and definitions of HB 2362 (2021) are vague and the subject matter is incredibly complex. Significant clarification and definition is needed if we are to operate with a clear understanding and fair application of the program. However, the move to sub-regulatory authority undermines the objectivity of the program. The administrative rule process exists to

provide accountability to the agency and predictable application of the law. By circumventing the administrative rule process on critical questions of the Health Care Market Oversight program, accountability and predictability are lost.

To be frank, it has been very difficult to even engage in the pace of the sub-regulatory process. The agency has published a steady stream of draft guidance that is highly complex and not easily understood. Our team has been consumed with response to the Omicron surge: inpatient volumes far beyond our typical bed license and numerous challenges with staffing and discharge barriers. Analyzing the agency's latest guidance has not been possible in detail and certainly not to the level we could engage last year. It is frustrating that a program with such significant implications is being developed in such a rushed timeline. Each additional draft document only seems to add ambiguity.

We are working hard to be a good partner with Oregon Health Authority, even in the midst of an incredibly challenging pandemic. However, all of these issues underscore the reality we have emphasized from the beginning: this program is not ready and should be delayed.

Sincerely,



James Parr
Executive vice president of operations
Chief financial officer
Salem Health